



SEMS DocID

2261716

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
841 Chestnut Building  
Philadelphia, Pennsylvania 19107-4431**

ORIGINAL

**SUBJECT:** Request for a Removal Action Restart Resulting in an Expenditure of more than \$6 Million at the Shaffer Equipment Company Site, Site ID# D8, in Minden, Fayette County, West Virginia

**FROM:** Abraham Ferdas, Acting Director  
Hazardous Waste Management Division (3HW00)

**TO:** Timothy Fields, Acting Assistant Administrator  
Office for Solid Waste and Emergency Response (5201)

**THRU:** Stephen Luftig, Director  
Officer Emergency and Remedial Response (5201G)

**ATTN:** Thomas R. Scheckells, Director  
Region 3/8 Accelerated Response Center (5201G)

**I. PURPOSE**

The Purpose of this Action Memorandum is to request approval of a CERCLA Removal Action Restart resulting in an expenditure exceeding \$6 Million to complete the Environmental Protection Agency (EPA) response activity pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. This request for a Removal Action Restart pertains to the Shaffer Equipment Company Site (Site) in Minden, Fayette County, West Virginia. On April 11, 1991, the EPA closed out its third Removal Action at this Site. All three Removal Actions focused on temporary stabilization until future remedial action could occur. Subsequent review of the HRS prescore determined that the Site would not score high enough to be listed on the National Priority List (NPL). Region III's Superfund Removal Branch has conducted an extensive review of the Site history, initial mitigation efforts, and current Site conditions. Due to the history of the Site, the On-Scene Coordinator (OSC) started a pro-active outreach effort to ensure that all interested parties were involved in each step of the assessment of the current Site conditions. While the outreach extended the review and assessment process, the relevant concerns of all interested parties are being addressed by the proposed action.

The OSC has determined that because the conditions at the Site meet the Removal criteria set forth in Section 300.415 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), additional funds in the amount of \$1,875,000 are needed to mitigate

the threat posed by PCB contamination at the Site. This will bring the total Site ceiling to \$6,890,490.

ORIGINAL

## **II. SITE CONDITIONS AND BACKGROUND**

### **A. Site Description**

1. **Removal Site Evaluation:** The On-Scene Coordinator has conducted an extensive review of the Site files and onsite investigations of the Shaffer Electric Company Site. The removal Site evaluation has found that the work performed during the initial Removal Action is deteriorating and that areas of PCB contamination remain on the Site. The OSC has determined that further Removal Action and post removal Site controls are required to mitigate the threat posed by the remaining PCB contamination at the Site.
2. **Physical Location and Site Characteristics:** The Site is located along Arbuckle Creek, in Minden, Fayette County, West Virginia. The Site is a long narrow area approximately 5 acres in size that is subject to frequent flooding from the adjacent creek. The Site is in a valley that drains to the Northeast into the New River Gorge, a National Wild and Scenic River Area. The Site is on the border of the Thurmond and Oak Hill United States Geological Survey topographical maps at 38 degrees, 58 minutes, 35 seconds North latitude and 81 degrees, 7 minutes, 38 seconds West longitude.
3. **Release or Threatened Release into the Environment of a Hazardous Substance, or Pollutant or Contaminant:** The results of the file review, Site sampling, and geological investigation have confirmed the presence of PCB contamination at the Site. The primary concern is characterized as surface and sub-surface soil/dust contamination in and around the Shaffer Equipment Company building. Polychlorinated Biphenyl (PCB) is a hazardous substance as defined in Section 101 (14) of CERCLA as amended, 42 U.S.C. § 9601 (14), because it is listed at 40 C.F.R. § 302.4.

The routes of exposure are through direct contact, inhalation and/or ingestion of contaminated soils/dusts. The history of periodic flooding; evidence of manmade disturbances to the initial mitigating remedy (soil cover) from EPA's previous removal; vandalism to the building, fences, and gates; areas of erosion of the surface soils and the overall deterioration of the property are evidence of the potential threat of offsite migration of the PCB contaminated soils/dusts.

4. **NPL Status:** The Shaffer Electric Company Site property is a non-NPL Site and is not expected to become an NPL Site.
5. **Maps, Pictures, and Other Graphic Representations:** A location map and Site map are included in attachment 1.

**B. Actions to Date**

1. Previous Actions: In 1984, EPA initiated the first of three Removal Actions at the former Shaffer Electric Company to mitigate the threat posed by extensive PCB contamination. The initial removal consisted of the removal of PCB contaminated equipment and the onsite staging of contaminated soils.

The second action included the effort to use an innovative technology to treat the contaminated soils onsite. The bench tests were promising, while the full scale field trial run was unsuccessful. The second removal ended with the offsite disposal of the staged PCB contaminated soils.

Concurrent with the second removal, EPA conducted a Preliminary Assessment and Site Investigation (PA/SI) to see if the Site would rank on the National Priority List (NPL). The initial Hazard Ranking System (HRS) prescore indicated the Site was a candidate for the NPL. The Site was referred to EPA's pre-remedial program for HRS scoring.

In 1990, additional sampling conducted by pre-remedial contractors found hot spots of PCB contamination. This resulted in the third Removal Action to address those high levels of contamination. That Removal Action was completed in April 1991 with the excavation, removal and off-site disposal of PCB contaminated soils. From 1988 - 1991 multiple draft HRS prescores were prepared with each subsequent score less than the previous score. The final determination was that the Site would not rank for the NPL.

2. Current Actions: The OCS's recent removal assessment and review of the Site included three separate Site visits which incorporated the input from the State, Property owner, and local concerned citizens. The OSC met with State and local officials about the Site and has conducted outreach to local citizens and to a local public interest group. The OSC's review of the Site files, his consultation with State officials, ATSDR and concerned citizens, along with the first Site visit, identified a number of potential areas of concern. Samples were collected and compared with past PCB sampling results verifying the presence of PCB contamination. Overall the conditions are similar to previous actions, PCB contamination in surface and sub-surface soils and within the building. The results of these investigations have been shared with all interested parties and are part of the administrative record.

**C. State and Local Authorities' Roles**

1. State and Local Actions to Date: The Shaffer Equipment Company Site is an EPA lead Removal action. The West Virginia Department of Environmental Protection (WVDEP) continues to provide technical and logistical support to EPA. The OSC has briefed the County Emergency Management Officer who has provided some

local support. In February, 1997, the Local fire Department responded to a fire in the Shaffer Building. As part of that response, State police arrested three juveniles and charged them with setting the fire.

2. Potential for Continued State and Local Response: The OSC is working with WVDEP in the development of the post removal Site control plan for the Site. In 1995 the property was put up for sheriff sale for past-due taxes. No bids were received. After three years the property will be put up for an auction, and if still not sold will become the property of the State. The only response action expected from local authorities would be limited to some catastrophic event at the Site, such as fire or flood. The County has advised the OSC that it does not have the resources to conduct any significant response action at this Site.

### **III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES**

Section 300.415 of the NCP lists factors to be considered in determining the appropriateness of a Removal Action. Paragraphs (b)(2)(I), (ii), (iv), (v), and (vii) of Section 300.415 directly apply as follow to the conditions at the Shaffer Equipment Company Site.

300.415 (b)(2)(I) "Actual or potential exposure to nearby human populations, animals or the food chain from hazardous substances or pollutants or contaminants"

The Shaffer Equipment Company Site is located within a narrow valley in the middle of Minden, Fayette County, West Virginia. The initial Removal Action memorandum (attached) authorized and funded efforts to stop the ongoing discharge of PCBs from transformers and capacitors on the Site. The initial and subsequent Removal Actions implemented temporary controls, such as boarding up and securing the building, fencing, and clean cover soil to mitigate the threat posed by the remaining contamination onsite. The history of frequent flooding of the adjacent stream and recurring vandalism continue to threaten the integrity of these initial Removal Actions. The continued degradation of the Site by flooding and the continuing surface discharge of the Minden Mine drain eroding existing cover soils present a threat to the surrounding human population and aquatic species and the food chain in Arbuckle Creek by the potential discharge of PCBs from the remaining contamination onsite.

300.415 (b)(2)(ii) "Actual or potential contamination of drinking water supplies or sensitive ecosystems"

The Site is located within the Oak Hill Wellhead Protection Area as established by the West Virginia Bureau of Public Health (attachment 3). Initial investigations suggest that there is little possibility of direct contamination to the Minden mine water if the Site is physically below the level of the mine. Initial surveys show the mine and the Site near

the same elevation with the Site being ten feet lower than the mine. The State has requested an additional topographical survey of the Site to verify the relative elevations of the Site and the Minden Mine. Because of the close proximity of the Site to the mine, further controls and monitoring are required to mitigate this threat completely.

300.415 (b)(2)(iv) "High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface that may migrate"

PCB data collected during the previous Removal Actions, which showed extensive subsurface contamination, has been confirmed by recent surface and sub-surface investigation and sample data. The attached EPA Site investigation reports and the Bureau of Reclamation report document that levels of PCB contamination above the 50 ppm (parts per million) remain in soils beneath the Site.

300.415 (b)(2)(v) "Weather conditions that may cause hazardous substances to migrate or be released"

The Site is in a narrow valley that is subject to frequent and sometimes severe flooding. As recently as June 1996, the Site was reported under water due to flooding. Erosion from flooding of Arbuckle Creek or the periodic ground water flow from the mine drain is the most probable method of offsite migration of PCB contamination.

300.415 (b)(2)(vii) "The availability of other appropriate Federal or State response mechanism to respond to the release"

The WVDEP has requested that EPA maintain the lead for this Site as the State does not have the resources to address the Site. However, the State will continue to work with EPA in the development and implementation of Post Removal Site Controls to ensure the continued integrity of the selected remedy.

#### **IV. PROPOSED ACTIONS AND ESTIMATED COSTS**

The proposed action is intended to mitigate the threat posed to the public health and the environment from the release of PCB contamination from the Site.

##### **A. Proposed Actions**

1. **Proposed Action Description:** The proposed action addresses five separate areas of the Site identified in previous Site investigations and option analysis. The proposed actions involve the decontamination and removal of the Shaffer Equipment Company Building and the installation of a cap over the area of sub-surface contamination. The remedy also includes the development and implementation of a comprehensive drainage plan and institutional controls for the entire Site and adjoining properties.

2. Contribution to Remedial Performance: The initial Removal Action provided a temporary stabilization in anticipation of having the Site listed on the National Priority List. With the determination that the Site will not score high enough on the HRS to be listed, the proposed action is to upgrade the initial stabilization previously performed to ensure the continued integrity of the selected remedy.

ORIGINAL

The proposed actions (decontamination and removal of the building, installation of a cap, drainage modifications and institutional controls) would not foreclose any future remedial action. These actions are consistent with remedial actions being carried out at NPL sites with similar types and quantities of contamination. These actions are also consistent with the list of sample Removal Actions in the NCP listed at 40 C.F.R. § 300.415 (e). Based on the HRS pre-score, it is unlikely that this Site would be listed on the National Priority List (NPL), and therefore, that no further action would be taken by EPA's Remedial program. The proposed Removal Actions are appropriate to meet the immediate threat to the public health as well as satisfy the need for long-term protection at this Site.

3. ARARs: The proposed Removal Actions set forth in this memorandum will comply with all applicable, relevant, and appropriate environmental and health requirements, to the extent practicable considering the exigencies of the situation. The following ARARs, and appropriate compliance with them are determined as follows:

a. Federal ARARs: The proposed action involves the onsite stabilization of the initial Removal Action remedies and the implementation of a comprehensive long term remedy for the Site, and does not, for the most part, involve disturbing or removing any contaminated material. One exception is that the proposed action will involve the removal of PCB contaminated dust from the onsite building for which TSCA and CAA regulations are applicable. To achieve compliance with both regulations, the OSC will request state and regional program office's review and comment on proposed decontamination procedures and monitoring plan.

Stabilization may require work in or adjacent to wetland areas and/or within the floodway of Arbuckle Creek. Such work will be monitored or directed by the U.S. Army Corps of Engineers to assure compliance with the appropriate riparian regulations.

b. State ARARs: On September 3, 1996, the OSC requested the West Virginia Department of Environmental Protection identify State ARARs. Initial discussions suggest that only two potential ARARs may apply. Air regulations for dust control during the building demolition and State ground water regulations concerning the nearby wellhead protection areas. The State Agency Coordinator is discussing the OSC's request with the appropriate state offices and will prepare a letter identifying State ARARs. The proposed Removal Action will easily comply with both potential State ARARs.

ORIGINAL

- c. Federal and/or State standards determined to be ARARs, but for which compliance is determined to be impractical: None.

These determinations are subject to change as Site activities proceed and more information is obtained regarding Site conditions and substances onsite. Further identification and analysis of ARARs will also continue as appropriate during the time that Site work proceeds.

4. Project Schedule: The proposed scope of work will require 10-12 weeks of onsite activity to implement. There will be additional down time to accommodate bid package preparation and acquisition requirements for the different areas of the Site.

**B. Estimated Costs**

Restart Project Ceiling: \$1,875,000

Extramural Costs

Regional Allowance Costs:

Cleanup Contractor Costs	\$250,000
Inter-Agency Agreement Costs	\$1,250,000

Other Extramural Costs:

Total SATA Costs	\$75,000
Subtotal	\$1,625,000
Extramural Costs Contingency	\$250,000
<b>Total Extramural Costs</b>	<b>\$1,825,000</b>

Intramural Costs

Direct Costs	\$30,000
Indirect Costs	\$20,000
<b>Total Intramural</b>	<b>\$50,000</b>

<b>TOTAL, RESTART PROJECT CEILING</b>	<b>\$1,875,000</b>
---------------------------------------	--------------------

<b>PREVIOUS PROJECT CEILING</b> (APPROVED 10/31/90)	<b>\$5,015,490</b>
--	--------------------

<b>PROPOSED SITE FUNDING AUTHORIZATION</b>	<b>\$6,890,490</b>
--	--------------------

**V. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN**

If no further Removal Action is taken or the action is delayed, the threat posed by the migration of PCB contamination from the Site to nearby residents and to the environment will remain. Contamination of residences and public areas downstream from flooding caused erosion, and the threat of direct contact to those who access the Site will occur if the Site conditions continue to degrade. Anna Shaffer<sup>1</sup> has advised the OSC that the property is in default. As such, a sheriff's sale was held, although nobody purchased the property. Shaffer Equipment Company's name, therefore, is still on the deed. Apparently, after an additional year the property will default to the State. Therefore, Shaffer Equipment Company is still the owner of the property. It was further stated by Anna Shaffer that the Site can not be secured because of the damage done to both the gate and the building.

**VI. ENDANGERMENT DETERMINATION**

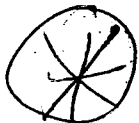
Actual or threatened releases of hazardous substances from this Site, if not addressed by implementing the response action proposed in this Action Memorandum may present an imminent and substantial endangerment to public health, welfare, or the environment.

**VII. EXEMPTION FROM STATUTORY LIMITS**

Section 104(c)(1) of CERCLA, 42 U.S.C. § 9604 (c)(1) states that the Federal response cannot continue after \$2,000,000 has been obligated or 12 months has elapsed from the date of the initial action. Pursuant to 40 C.F.R § 300.415(b)(5) of the NCP, the Shaffer Equipment Site meets the emergency exemption criteria for exceeding the \$2 million and 12 month statutory limits.

**A. Emergency Exemption 40 C.F.R § 300.415(b)(5)(I)**

42 U.S.C. § 9604, CERCLA Section 104(c)(1)(A)(i)



"Continued response actions are immediately required to prevent, limit, or mitigate an emergency"

On February 17, 1997 local fire fighters responded to a fire set by juveniles in the Shaffer Site Building. The locks on the gate to the Site have been broken and the building broken into. Efforts to have the current property owners to secure the property and the building have been unsuccessful.

During the previous responses, the Removal Actions focused on the stabilization of the Site. Throughout previous removal operations, the property owner continued to

---

<sup>1</sup>Anna Shaffer inherited the property at the time of the death of her husband in 1982. She then deeded the property to Shaffer Equipment Company in 1988.



maintain security on the Shaffer building and access to the Site. Building had its doors locked and the windows boarded up. The Site had cyclone fencing at the Eastern & Western ends of the property with chained and padlocked gate. On April 30, 1997, the OSC was advised by the property owner's Attorney that the property owner declined EPA's request to replace the locks on the gate and building and otherwise secure the property.

The actions proposed herein are immediately required to prevent an emergency. Removal Actions taken at the Site from 1984 to 1991 were responsive to the immediate threats posed by the presence of PCBs and PCB contaminated soils at the time of those respective actions. All previous actions were taken with the presumption that Remedial action would follow with a final remedy.

It is now clear that the Site will not score high enough to be listed on the NPL. It has become clear that the temporary measures taken previously have deteriorated and there is now a threat of the offsite release of a hazardous substance. The offsite migration of PCB contamination poses a threat to the public through direct contact, inhalation or ingestion. This threat is of the same immediate nature as the original threats and require immediate removal actions.

42 U.S.C. § 9604, CERCLA Section 104 (c)(1)(A)(ii)

"There is an immediate risk to public health and welfare or the environment"

The comprehensive review of Site conditions, Site sampling and geological investigation have shown that the effects of weathering and erosion have compromised the integrity of EPA's previous temporary actions. The broken locks on the gates to the property and building doors allow unrestricted access to the Site building and its contaminated contents. This lack of security and the deteriorating Site conditions present an immediate risk to public health and the environment.

42 U.S.C. § 9604, CERCLA Section 104 (c)(1)(A)(iii)

"Assistance will not otherwise be provided on a timely basis"

Neither WVDEP nor the known PRPs possess the resources or willingness to mitigate the conditions at the Site.

## VII. OUTSTANDING POLICY ISSUES

None.

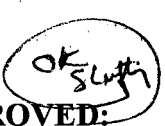
## VIII. ENFORCEMENT

See attached Confidential Enforcement Addendum.

**IX. RECOMMENDATION**

This decision document represents the selected Removal Action for the Shaffer Equipment Company Site, in Minden, West Virginia, developed in accordance with CERCLA as amended, and not inconsistent with the National Contingency Plan. This decision is based on the administrative record for the Site.

Because conditions at the Shaffer Equipment Company Site continue to meet the criteria set forth in Section 300.415 of the NCP for a Removal Action, I recommend your approval of the Request for Removal Restart at the Shaffer Equipment Company Site in Minden, Fayette County, West Virginia. As On-Scene Coordinator (OSC), I have determined that additional funds in the amount of \$1,875,000 is required to complete the proposed Removal Actions. If approved, the total project ceiling will be raised from \$5,015,490 to \$6,890,490.

APPROVED:  Timothy Fields, Jr. DATE: 9/24/97  
ASSISTANT ADMINISTRATOR  
OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

DISAPPROVED: \_\_\_\_\_ DATE: \_\_\_\_\_  
ASSISTANT ADMINISTRATOR  
OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

## Attachments:

1. Confidential enforcement status
2. Site Review Trip Report, w/Maps and sketches
3. Expanded Contamination Study
4. Bureau of Reclamation Report